

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD JANUARY 2007 / 13 POUSHA 1928

Crl.MC.No. 20 of 2007()

ST.4886/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT, VADAKKANCHERY

PETITIONER: ACCUSED

SIBY JOSEPH, AGED 44 YEARS,
S/O.DEVASIA JOSEPH, VADASSERY HOUSE,
PUTHENCHANTHA, MUNDAKKAYAM, KOTTAYAM DISTRICT.

BY ADV. SRI.K.J.ALPHONS

RESPONDENTS: STATE AND COMPLAINANT

1. STATE OF KERALA,
REP.BY ITS PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.
2. SUB INSPECTOR OF POLICE,
MAUNDAKKAYAM POLICE STATION, KOTTAYAM DISTRICT.
3. FOSTER BISCUITS REPRESENTED BY
ANISH, VADAKKANCHERRY.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 03/01/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.20 of 2007

Dated this the 3rd day of January 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. According to him, neither the notice of demand under Section 138 of the Negotiable Instruments Act nor the summons issued by the court were received by him. But he finds himself in an unenviable predicament of a warrant of arrest issued by the learned Magistrate chasing him. He wants to appear before the learned Magistrate but apprehends that the learned Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously. He, therefore, prays that the directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate.

3. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient General directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the learned Public Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006